

AMENDED IN SENATE MAY 30, 2012

AMENDED IN SENATE MAY 8, 2012

AMENDED IN ASSEMBLY JANUARY 12, 2012

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 578

Introduced by Assembly Member Hill

February 16, 2011

An act to add Section 960 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 578, as amended, Hill. Public utilities: natural gas pipelines: safety.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities. The Public Utilities Act authorizes the commission to ascertain and fix just and reasonable standards, classifications, regulations, practices, measurements, or services to be furnished, imposed, observed, and followed by specified public utilities, including gas corporations. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. The Natural Gas Pipeline Safety Act of 2011 designates the commission as the state authority responsible for regulating and enforcing intrastate gas pipeline transportation and pipeline facilities pursuant to federal law, including the development, submission, and administration of a state pipeline safety program certification for natural gas pipelines.

~~If a safety recommendation is made in a published pipeline accident report, pipeline accident brief, safety study, or safety recommendation letter, by the federal National Transportation Safety Board (NTSB) on or after January 1, 2012, this bill would require the commission to determine if implementation of the recommendation is appropriate. This bill would require the commission to implement, as soon as is practicable, any natural gas pipeline safety recommendation that it determines to be appropriate. The bill would require the commission, in implementing the safety recommendation, to consider whether a more effective, or equally effective and less costly, alternative exists to address the safety issue that the recommendation addresses. The bill would require that, if the commission determines that implementation of a safety recommendation is not appropriate, the reason or reasons be detailed in writing and be approved by a majority vote of the commission. The bill would require the commission to include a detailed description of any action taken on an NTSB safety recommendation in a specified annual report the commission is required to make to the Legislature. The bill would require the commission to determine whether costs incurred for implementation of the requirements of this section are reasonably and prudently incurred and to authorize recovery in rates for those costs that are reasonably and prudently incurred. The bill would prohibit the commission from authorizing the recovery of expenses that would have been avoided if the utility had been in compliance with then-existing state or federal requirements.~~

When the federal National Transportation Safety Board (NTSB) submits a safety recommendation letter concerning gas pipeline safety to the commission, this bill would require the commission, within 90 days, to provide the NTSB with a formal written response to each recommendation stating: (1) the commission's intent to implement the recommendations in full, with a proposed timetable for implementation of the recommendations, (2) the commission's intent to implement part of the recommendations, with a proposed timetable for implementation of those recommendations, and detailed reasons for the commission's refusal to implement those recommendations that the commission does not intend to implement, or (3) the commission's refusal to implement the recommendations, with detailed reasons for the commission's refusal to implement the recommendations. When the NTSB issues a safety recommendation letter concerning any commission-regulated gas pipeline facility to the United States Department of Transportation, the federal Pipeline and Hazardous Materials Safety Administration

(PHMSA), a gas corporation, or to the commission, or the PHMSA issues an advisory bulletin concerning any commission-regulated gas pipeline facility, the bill would require the commission to determine if implementation of the recommendation or advisory is appropriate and further require that the basis for the commission's determination be detailed in writing and be approved by a majority vote of the commission. If the commission determines that a safety recommendation made by the NTSB is appropriate or that action concerning an advisory bulletin by the PHMSA is necessary, the bill would require that the commission issue orders or adopt rules to implement the safety recommendations or advisory as soon as practical and to consider whether a more effective, or equally effective and less costly, alternative exists to address the safety issue that the recommendation or advisory addresses. The bill would require the commission to include a detailed description of any action taken on an NTSB safety recommendation, or to implement an advisory bulletin, in a specified annual report the commission is required to make to the Legislature.

Under existing law, a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because this bill would require the commission to issue orders or adopt rules to implement any safety recommendation by the NTSB relative to natural gas pipeline safety that the commission determines to be appropriate and a violation of these orders or rules would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 960 is added to the Public Utilities Code,
- 2 to read:
- 3 960. (a) ~~Beginning January 1, 2012, if~~ When the federal
- 4 National Transportation Safety Board (NTSB) ~~makes submits~~ a
- 5 safety recommendation ~~or multiple recommendations relative to~~
- 6 natural gas pipeline safety as part of a published pipeline accident

1 ~~report, pipeline accident brief, safety study, or safety~~
2 ~~recommendation letter, the commission shall determine if~~
3 ~~implementation of the recommendation is appropriate. letter~~
4 *concerning gas pipeline safety to the commission, the commission*
5 *shall provide the NTSB with a formal written response to each*
6 *recommendation not later than 90 days after receiving the letter.*

7 *The response shall state one of the following:*

8 *(1) The commission's intent to implement the recommendations*
9 *in full, with a proposed timetable for implementation of the*
10 *recommendations.*

11 *(2) The commission's intent to implement part of the*
12 *recommendations, with a proposed timetable for implementation*
13 *of those recommendations, and detailed reasons for the*
14 *commission's refusal to implement those recommendations that*
15 *the commission does not intend to implement.*

16 *(3) The commission's refusal to implement the recommendations,*
17 *with detailed reasons for the commission's refusal to implement*
18 *the recommendations.*

19 ~~(b) If the commission determines that implementation of a safety~~
20 ~~recommendation is not appropriate, the reason or reasons-~~ *NTSB*
21 *issues a safety recommendation letter concerning any*
22 *commission-regulated gas pipeline facility to the United States*
23 *Department of Transportation, the federal Pipeline and Hazardous*
24 *Materials Safety Administration (PHMSA), a gas corporation, or*
25 *to the commission, or the PHMSA issues an advisory bulletin*
26 *concerning any commission-regulated gas pipeline facility, the*
27 *commission shall determine if implementation of the*
28 *recommendation or advisory is appropriate. The basis for the*
29 *commission's determination shall be detailed in writing and shall*
30 *be approved by a majority vote of the commission.*

31 *(c) If the commission determines that a safety recommendation*
32 *made by the NTSB is appropriate or that action concerning an*
33 *advisory bulletin is necessary, the commission shall issue orders*
34 *or adopt rules to implement the safety recommendations or*
35 *advisory as soon as practicable. In implementing the safety*
36 *recommendation or advisory, the commission shall consider*
37 *whether a more effective, or equally effective and less costly,*
38 *alternative exists to address the safety issue that the*
39 *recommendation or advisory addresses.*

1 (d) Any action taken by the commission on a safety
2 ~~recommendation made by the NTSB in a published pipeline~~
3 ~~accident report, pipeline accident brief, safety study, or safety~~
4 ~~recommendation letter or advisory bulletin~~ shall be reported
5 annually, in detail, to the Legislature with the report required by
6 Section 321.6.

7 ~~(e) The commission shall determine whether costs incurred for~~
8 ~~implementation of the requirements of this section are reasonably~~
9 ~~and prudently incurred and authorize recovery in rates for those~~
10 ~~costs that are reasonably and prudently incurred. The commission~~
11 ~~shall not authorize recovery of those expenses that would have~~
12 ~~been avoided if the utility had been in compliance with~~
13 ~~then-existing state or federal requirements.~~

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.